

December 28, 2005

Joseph Fabry
5807 Wilber Ave.
Parma, OH 44129

RE: General Electric Company
Case No. 8-CA-36163
International Union of Electrical, Machine and Radio
Workers (IUE), and Communications Workers of America
(CWA) Local Union No. 84715 (General Electric Company)
Case No. 8-CB-10450

Dear Mr. Fabry:

The Region has carefully investigated and considered your charges against General Electric Company and International Union of Electrical, Machine and Radio Workers (IUE), and Communications Workers of America (CWA) Local Union No. 84715 alleging violations under Section 8 of the National Labor Relations Act.

Decision to Dismiss: Based on that investigation, I have concluded that further proceedings are not warranted, and I am dismissing your charges for the following reasons:

In your charge against the Employer, you allege that the Employer unlawfully granted superseniority to Union Steward George Poole and transferred you to Second Shift despite your seniority over Poole. In your charge against the Union, you allege that the Union also unlawfully granted Poole superseniority in violation of the contract and that the Union refused to process your grievance over your transfer. The investigation revealed that both the Employer and the Union provided compelling evidence showing that George Poole's superseniority furthers the effective administration of the collective bargaining agreement. Poole's continuous presence on First Shift was shown to be necessary in order to effectively represent the Skilled Trades and Blisterpak employees on First Shift. The investigation also revealed that the Union did not refuse to process your grievance. Rather, the Union decided not to pursue your grievance to arbitration. No evidence was either presented or disclosed during our investigation to demonstrate that the Union's decision was arbitrary, invidious or discriminatory in violation of Section 8(b)(1)(A) of the Act. Accordingly, I am refusing to issue complaint in these matters.

Your Right to Appeal: The National Labor Relations Board Rules and Regulations permit you to obtain a review of this action by filing an appeal with the General Counsel of the National Labor Relations Board. If you wish to file an appeal, your attention is directed to the following:

Appeal Due Date: The appeal must be received by the General Counsel in Washington, D.C. by the close of business at **5:00 p.m. on January 6, 2006**. However, if you mail the appeal, it will be considered timely if it is postmarked no later than one day before the due date. The appeal **MAY NOT** be filed by facsimile transmission.

Extension of Time to File Appeal: Upon good cause shown, the General Counsel may grant you an extension of time to file the appeal. You may file a request for an extension of time to file by mail, facsimile transmission, or through the Internet. The fax number is (202) 273-4283. Special instructions for requesting an extension of time over the Internet are set forth in the attached Access Code Certificate. While an appeal will be accepted as timely filed if it is postmarked no later than one day prior to the appeal due date, this rule does not apply to requests for extensions of time. A request for an extension of time to file an appeal **must be received** on or before the original appeal due date. A request that is postmarked prior to the appeal due date but received after the appeal due date will be rejected as untimely. Unless filed through the Internet, a copy of any request for extension of time should be sent to me.

Appeal Contents: You are encouraged to submit a complete statement setting forth the facts and the reasons why you believe the decision to dismiss the charge was incorrect. However, the enclosed Appeal Form (NLRB-4767) by itself will be treated as an appeal if timely filed upon the General Counsel and me.

Confidentiality/Privilege: Please be advised that we cannot accept any limitations on the use of any appeal statement or evidence in support thereof provided to the Agency. Thus, any claim of confidentiality or privilege cannot be honored, except as provided by the FOIA, 5 U.S.C. 552, and any appeal statement may be subject to discretionary disclosure to a party upon request during the processing of the appeal. In the event the appeal is sustained, any statement or material submitted may be subject to introduction as evidence at any hearing that may be held before an administrative law judge. Further, we are required by the Federal Records Act to keep copies of documents used in our case handling for some period of years after a case closes. Accordingly, we may be required by the FOIA to disclose such records upon request, absent some applicable exemption such as those that protect confidential source, commercial/financial information or personal privacy interests (e.g., FOIA Exemptions 4, 6, 7(C) and 7(D), 5 U.S.C. § 552(b)(4), (6), (7)(C), and (7)(D)). Accordingly, we will not honor any requests to place limitations on our use of appeal statements or supporting evidence beyond those prescribed by the foregoing laws, regulations, and policies.

Address for Appeal: The appeal should be sent to the General Counsel of the National Labor Relations Board, Office of Appeals, 1099 14th Street, N.W., Washington, D.C. 20570. You should send a copy of the appeal to me.

Notice to Other Parties of Appeal: You should notify the other party(ies) to the case that an appeal has been filed. Therefore, at the time the appeal is sent to the General Counsel, please complete the enclosed Appeal Form (NLRB-4767) and send one copy of the form to all parties whose names and addresses are set forth in this letter.

Very truly yours,

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Frederick J. Calatrello
Regional Director

FJC/sz

cc: Office of Appeals
N.L.R.B.
Washington, D.C. 20570

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UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

APPEAL FORM

To: General Counsel
Attn: Office of Appeals
National Labor Relations Board
Room 8820, 1099 14th Street, N.W.
Washington, D.C. 20570

Date:

Please be advised that an appeal is hereby taken to the General Counsel of the National Labor Relations Board from the action of the Regional Director in refusing to issue a complaint on the charge in

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Case No(s). (If more than one case number, include all case numbers in which appeal is taken.)

(Signature)

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